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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

DANIEL MATERA and SUSAN RASHKIS,
as individuals, and on behalf of other persons
similarly situated,

Plaintiffs,

v.

GOOGLE INC.,

Defendant.

Case No. 5:15-cv-04062 LHK

**JOINT CASE MANAGEMENT STATEMENT
(Civ. L. R. 16-10(d))**

Date: July 5, 2017
Time: 2:00 p.m.
Dept.: Courtroom 8 - 4th Floor
280 S. First Street
San Jose, CA 95113

Judge: The Hon. Lucy H. Koh
Trial Date: June 18, 2018

For the case management conference (“CMC”) set for July 5, 2017, plaintiffs Daniel Matera and Susan Rashkis (“Plaintiffs”) and defendant Google Inc. (“Google”, and collectively with Plaintiffs, the “Parties”) hereby submit this Joint Case Management Statement pursuant to Civil Local Rule 16-10(d) to report progress in the action since the last CMC.

I. DISCOVERY

The last CMC in this matter occurred on May 10, 2017. The parties have continued with discovery to ensure compliance with all deadlines in the operative scheduling order, regardless of whether the agreement in principle, described below, matures into an executed settlement agreement. Since the last CMC, Google has produced over 103,000 pages of documents as part of a rolling production anticipated to be substantially completed by the end of August. This production is in addition to the 130,000 pages of documents from prior proceedings and transcripts of eight depositions of key Google employees taken in prior proceedings (covering topics such as key pieces of Google architecture associated with message scanning, user modeling, spam filtering, and message-routing procedures). In addition to the rolling document production, on June 28, 2017, Google provided supplemental responses to Plaintiffs’ First Set of Interrogatories, which were in addition to the supplemental responses served on September 9, 2016. Google also provided responses to Plaintiffs’ Second Set of Interrogatories and First Set of Requests for Admission on June 20, 2017. A deposition of a key Google employee is scheduled for July 13, 2017. In addition, Google will produce for deposition another key employee with knowledge of the technical, design and policy changes that would be involved in eliminating content scans of emails for advertising while in transit. Plaintiffs are noticing further witnesses for deposition, including a Rule 30(b)(6) deposition, for early to mid-August.

II. CASE DEVELOPMENTS

Following the Court’s denial of the motion for preliminary approval of the parties’ settlement (Dkt. 71, the “Order”), the parties continued to discuss whether and to what extent the proposed settlement could be renegotiated to comport with the Order and the Court’s prior comments and orders in the case. To that end, on or before June 21, 2017, the parties reached a revised settlement in principle, the central feature of which directly addresses the concern the Court

1 expressed in its prior Order concerning scanning of inbound email in transit and prior to delivery
2 to the Gmail user's inbox (hereinafter referred to as "pre-delivery scanning") that serves a "dual
3 purpose" (namely, for the purpose of targeting ads and for other purposes). In particular, per the
4 revised settlement agreement, Google will agree to no longer conduct *any* pre-delivery scanning
5 for advertising purposes. Thus, any pre-delivery scanning that Google conducts will be exclusively
6 for non-advertising purposes and any data outputs generated by any pre-delivery scanning will no
7 longer be used for advertising purposes at any time. Although Google does not currently conduct
8 any pre-delivery scanning for advertising purposes related to outbound emails, Google's
9 prospective commitments under the revised settlement agreement also will apply to outbound
10 emails sent by Gmail users.

11 Google further advises the Court that on June 23, 2017, it announced a business-related
12 change to the Gmail service, as part of which Google will no longer scan the contents of inbound
13 emails at any time for advertising purposes. Google views this announcement as independent of the
14 agreement in principle reached in this case, but as consistent with and evidencing Google's
15 commitment to the proposed terms of the agreement in principle.

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1 Dated: June 28, 2017

Respectfully submitted,

2 LIEFF CABRASER HEIMANN & BERNSTEIN, LLP

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4 By: /s/ Michael W. Sobol

5 Michael W. Sobol

6 LIEFF CABRASER HEIMANN & BERNSTEIN LLP

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18 *Attorneys for Plaintiffs and the Proposed Class*

1 Dated: June 28, 2017

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ATTESTATION PURSUANT TO CIV. L.R. 5-1(i)(3)

I, Whitty Somvichian, attest that concurrence in the filing of this **JOINT CASE MANAGEMENT CONFERENCE STATEMENT** has been obtained from Michael W. Sobol. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed this 28th day of June, 2017, at San Francisco, California.

/s/ Whitty Somvichian
Whitty Somvichian

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